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8   UNITED STATES DISTRICT COURT

9   NORTHERN DISTRICT OF CALIFORNIA

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11   )
   GEORGE GUND, III, et al.,   )   No. C08-4902 TEH (BZ)
12   )
)
13   Plaintiff(s),   )
)
14   )
)
15   v.   )
)   **ORDER SCHEDULING**
16   PRATT & WHITNEY CANADA CORP.,   )   **SETTLEMENT CONFERENCE**
)
17   )
             Defendant(s).   )
18   _____)
     REZABEK-KELLS, et al.,   )
19   )   and Related Case:
             Plaintiff(s),   )
20   )   No. C08-3795 TEH (BZ)
        v.   )
21   )
   PRATT & WHITNEY CANADA CORP,   )
22   et al.   )
)
23   Defendant(s).   )
     _____)
24

25   The above matter was referred to Magistrate Judge Bernard

26   Zimmerman for settlement purposes.

27   You are hereby notified that a settlement conference is

28   scheduled for **Tuesday, December 15, 2009, at 9:00 a.m.**, in

                                1

1 Courtroom G, 15th Floor, Federal Building, 450 Golden Gate

2 Avenue, San Francisco, California 94102.

3   It is the responsibility of counsel to ensure that whatever

4 discovery is needed for all sides to evaluate the case for

5 settlement purposes is completed by the date of the settlement

6 conference. Counsel shall cooperate in providing discovery

7 informally and expeditiously.

8   Lead trial counsel shall appear at the Settlement

9 Conference with the parties. Any party who is not a natural

10 person shall be represented by the person or persons **not**

11 **directly involved** in the events which gave rise to the

12 litigation but with **full** authority to negotiate a settlement. A

13 person who needs to call another person not present before

14 accepting, rejecting or making any settlement offer does not

15 have full authority. If a party is a governmental entity, its

16 governing body shall designate one of its members or a senior

17 executive to appear at the Settlement Conference with authority

18 to participate in the Settlement Conference and, if a tentative

19 settlement agreement is reached, to recommend the agreement to

20 the governmental entity for its approval. An insured party

21 shall appear with a representative of the carrier with full

22 authority to negotiate up to the limits of coverage. The Court

23 shall be notified immediately if the carrier declines to attend.

24 Personal attendance of a party representative will rarely be

25 excused by the Court, and then only upon separate written

26 application demonstrating substantial hardship served on

27 opposing counsel and lodged as early as the basis for the

28 hardship is known.

1   Each party shall prepare a Settlement Conference Statement,

2 which must be served on opposing counsel and lodged (not faxed)

3 with my chambers no later than seven calendar days prior to the

4 conference. The Statement shall **not** be filed with the Clerk of

5 the Court. The Statement **may** be submitted on CD-ROM with

6 hypertext links to exhibits. Otherwise, the portion of exhibits

7 on which the party relies **shall** be highlighted. The Settlement

8 Conference Statement shall not exceed ten pages of text and

9 twenty pages of exhibits and shall include the following:

10   1.   A brief statement of the facts of the case.

11   2.   A brief statement of the claims and defenses

12 including, but not limited to, statutory or other grounds upon

13 which the claims are founded.

14   3.   A summary of the proceedings to date and any pending

15 motions.

16   4.   An estimate of the cost and time to be expended for

17 further discovery, pretrial and trial.

18   5.   For any party seeking relief, a description of the

19 relief sought, including an itemization of damages.

20   6.   The parties' position on settlement, including present

21 demands and offers and a history of past settlement discussions.

22 The Court's time can best be used to assist the parties in

23 completing their negotiations, not in starting them.

24 Accordingly, plaintiff must serve a demand in writing no later

25 than fourteen days before the conference and defendant must

26 respond in writing no later than eight days before the

27 conference. If plaintiff seeks attorney's fees and costs,

28 plaintiff's counsel shall either include the fee claim in the

1   demand or make a separate, simultaneous demand for fees and

2   costs.   Counsel shall be prepared at the conference to provide

3   sufficient information to defendant to enable the fee claim to

4   be evaluated for purposes of settlement.   The parties are urged

5   to carefully evaluate their case before taking a settlement

6   position since extreme positions hinder the settlement process.

7   Along with the Statement each party shall lodge with the

8   court a document of no more than three pages containing a **candid**

9   evaluation of the parties' likelihood of prevailing on the

10   claims and defenses, and any other information that party wishes

11   not to share with opposing counsel.   The more candid the parties

12   are, the more productive the conference will be.   This document

13   shall not be served on opposing counsel.

14   It is not unusual for conferences to last three or more

15   hours.   Parties are encouraged to participate and frankly

16   discuss their case.   Statements they make during the conference

17   will not be admissible at trial in the event the case does not

18   settle.   The parties should be prepared to discuss such issues

19   as:

20   1. Their settlement objectives.

21   2. Any impediments to settlement they perceive.

22   3. Whether they have enough information to discuss

23   settlement.   If not, what additional information is needed.

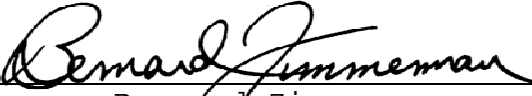24   4. The possibility of a creative resolution of the dispute.

25   The parties shall notify Magistrate Judge Zimmerman's

26   chambers immediately if this case settles prior to the date set

27   ///

28   ///

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1 for settlement conference.   Counsel shall provide a copy of this

2 order to each party who will participate in the conference.

3 Dated: November 20, 2009

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6 Bernard Zimmerman
   United States Magistrate Judge

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